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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,247	12/13/2001	Pradeep Tumati	PTU01	6206

7590

02/25/2005

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EXAMINER

KANG, INSUN

ART UNIT	PAPER NUMBER
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2124

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/023,247

Applicant(s)

TUMATI, PRADEEP

Examiner

Insun Kang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/13/2001</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responding to application papers dated 12/13/2001.
2. Claims 1-34 are pending in the application.

Specification

3. The abstract of the disclosure is objected to because: there appears to be an improper content (file location) in line 11. It needs to be deleted. Correction is required. See MPEP § 608.01(b).

The provisional application number in the "field of the Invention" section is incorrect. It needs to be corrected to "60/302,420."

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Marron (US Patent 5,359,730).

Per claim1:

Marron discloses:

-generating an initial version of object code from an initial version of source code created by a computer programmer so that the initial version of object code (i.e. "non-

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disruptively replacing old operation system programs or modules with new updated versions thereof while providing continuous availability and operation of the system,”

abstract; “the change modules,” col. 7 lines 1-3)

-a computer readable medium; and, a set of computer readable instructions embodied in said computer readable medium for: creating an initial version of source code (i.e.

“the new programs are created,” col. 6 lines 50-59)

- storing said initial version of source code within said computer readable medium (i.e.

“The new versions are loaded into the system along with change instructions providing information controlling the update,” abstract)

- segmenting said initial version of source code by creating initial grain boundaries that define initial grains having predetermined segments of code within said initial version of source code (i.e. “change modules,” col. 7 lines 1-3)

- translating said initial version of source code to an initial version of object code, said object code having object grain boundaries and object grains corresponding to said initial grain boundaries and said initial grains respectively so that initial object code is provided that can be subsequently modified without halting its execution (i.e. see fig. 4;

“copies of the new programs A’ and B’ from the library into memory in such a manner that the new programs are initially “hidden” from the rest of the system; “pass control to the...program for execution,” col. 8 lines 32-37) as claimed.

Per claim 2:

The rejection of claim 1 is incorporated, and further, Marron teaches:

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- instructions for making available said initial grain boundaries to the computer programmer for inspection and review so that the computer programmer can preview said initial grains (i.e. col. 7 lines 61-66; col. 8 lines 32-37).

Per claim 3:

The rejection of claim 1 is incorporated, and further, Marron teaches:

- instructions for modifying said initial grain boundaries of said initial version of source code so that said initial grains of the initial version of source code can be modified so that the computer programmer can modify said grains (i.e. col. 7 lines 61-66; col. 8 lines 32-37).

Per claim 4:

The rejection of claim 1 is incorporated, and further, Marron teaches:

- instructions for storing said initial grain boundaries and said object code in said computer readable medium for subsequent retrieval when performing modifications to said initial object code (i.e. " storing in such address pointers to the new code," col. 8 lines 49-52; 43-44)

Per claim 5:

The rejection of claim 1 is incorporated, and further, Marron teaches:

- instructions for verifying lexical information of said initial version of source code so that lexical errors may be identified in said source code prior to its translation (col. 8 lines 5-14; col. 7 lines 3-11).

Per claim 6:

The rejection of claim 1 is incorporated, and further, Marron teaches:

- instructions for verifying syntactical information of said initial version of source code so that syntactical errors may be identified in said source code prior to its translation (col. 8 lines 5-14; col. 7 lines 3-11).

Per claim 7:

The rejection of claim 1 is incorporated, and further, Marron teaches:

-retrieving said initial version of source code from said computer readable medium, creating a second version of source code from said initial version of computer readable medium having second grain boundaries defining second grains, and, mapping said initial grain boundaries of said initial version of source code onto said second grain boundaries of said second version of source code so that differences between said initial grains and said second grains can be determined (i.e. see fig. 4; "copies of the new programs A' and B' from the library into memory in such a manner that the new programs are initially "hidden" from the rest of the system; "pass control to the...program for execution," col. 8 lines 32-37; col. 7 lines 61-66; col. 8 lines 32-37) as claimed.

Per claim 8:

The rejection of claim 1 is incorporated, and further, Marron teaches:

- presenting varying compiler optimization levels according to said initial grain boundaries of said initial version of source code, and, receiving an optimization level selection for translating said initial version of source code to an initial version of object code (col. 7 lines 61-66; col. 8 lines 32-37).

Per claim 9:

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The rejection of claim 8 is incorporated, and further, Marron teaches:

-storing said selected optimization level within said computer readable medium for subsequent retrieval (i.e. "storing in such address pointers to the new code," col. 8 lines 49-52; 43-44)

Per claim 10:

The rejection of claim 1 is incorporated, and further, Marron teaches:

-a crumb associated with said object grain having an active and inactive state so that said object grain will be modified when said crumb is in said active state without halting the execution of said object code ("installs traps...at all safe points...determine ...whether program A or program A' should be executed," col. 8 lines 5-35; "initially marks all process and tasks as ...unsafe," col. 7 lines 52-67).

Per claim 11:

Marron discloses:

- modifying a first version of object code having first grain boundaries and first grains, stored in a computer readable medium, to a second version of object code (i.e. "non-disruptively replacing old operation system programs or modules with new updated versions thereof while providing continuous availability and operation of the system," abstract; "the change modules," col. 7 lines 1-3)

-a set of computer readable instructions embodied within said computer readable medium for: retrieving said first version of source code from said computer readable medium, duplicating said first version of source code into a second version of source

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code within said computer readable medium (i.e. see fig. 4; "copies of the new programs A' and B' from the library into memory in such a manner that the new programs are initially "hidden" from the rest of the system; "pass control to the... program for execution," col. 8 lines 32-37)

-creating second grain boundaries associated with said second version of source code defining second grains (i.e. "The new versions are loaded into the system along with change instructions providing information controlling the update," abstract)

-mapping said first grains onto said second grains, editing said second version of source code, translating said second version of source code to a second version of object code while maintaining said mapping of said first and second grains (i.e. "The new versions are loaded into the system along with change instructions providing information controlling the update," abstract)

-creating a dynamic list of first grains and corresponding second grains for at least those first grains to be modified according to said second version of source code (i.e. "store load modules...and change-instructions...in program library," col. 7 lines 49-51; "to determine...whether program A or program A' should be executed," col. 8 lines 32-35; "storing in such address pointers to the new code," col. 8 lines 49-52)

-creating a dictatorial having at least one dictum according to said dynamic list and at least a portion of said second version of object code (i.e. "store load modules...and change-instructions...in program library," col. 7 lines 49-51; col. 8 lines 32-35)

-generating a hot pack according to said dictatorial and at least a portion of said second version of object code so that said hot pack can be distributed in order to modify said

first version of object code to said second version of object code without halting the execution of said first version of object code (i.e. "storing in such address pointers to the new code," col. 8 lines 49-52; see fig. 4; "copies of the new programs A' and B' from the library into memory in such a manner that the new programs are initially "hidden" from the rest of the system; "pass control to the... program for execution," col. 8 lines 32-37) as claimed.

Per claim 12:

The rejection of claim 11 is incorporated, and further, Marron teaches:

- instructions for editing said second grain boundaries so that said second grains can be modified (i.e. "change modules," col. 7 lines 1-3)

Per claims 13-16:

These claims are another versions of the claimed method discussed in claims 5, 6, 8, 9, wherein all claim limitations also have been addressed and/or covered in cited areas as set forth the above.

Per claim 17:

The rejection of claim 11 is incorporated, and further, Marron teaches:

- instructions for adding dictums to said dictorial so that the computer programmer may modify said dictorial (i.e. "storing in such address pointers to the new code," col. 8 lines 49-52; see fig. 4; "copies of the new programs A' and B' from the library into memory in such a manner that the new programs are initially "hidden" from the rest of the system,"

col. 8 lines 32-37) as claimed.

Per claim 18:

The rejection of claim 11 is incorporated, and further, Marron teaches:

- modifying said dynamic list so that the computer programmer may modify said dynamic list (i.e. "storing in such address pointers to the new code," col. 8 lines 49-52; see fig. 4; "copies of the new programs A' and B' from the library into memory in such a manner that the new programs are initially "hidden" from the rest of the system," col. 8 lines 32-37) as claimed.

Per claims 19-28, they are the system versions of claims 1-10, respectively, and are rejected for the same reasons set forth in connection with the rejection of claims 1-10 above.

Per claims 29-34, they are the system versions of claims 11, 12, and 15-18, respectively, and are rejected for the same reasons set forth in connection with the rejection of claims 11, 12, and 15-18 above.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Insun Kang whose telephone number is 571-272-3724. The examiner can normally be reached on M-F 9:30-6.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on 571-272-3719. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

I. Kang
AU 2124
2/18/2005

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